

REMARKS

Claims 1-17 are currently pending in this application. Applicants have added new claims 18-20. Reconsideration is respectfully requested in light of the above claim amendments and the following remarks.

The Examiner rejected claims 1, 2, 5, 6, 9 and 12 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,925,073 to Chastain in view of U.S. Patent Number 6,430,449 to Hsu et al. and claims 3, 4, 7, 8, 10, 11 and 13-17 under 35 U.S.C. 103(a) as being obvious over Hsu et al. Applicants respectfully traverse these rejections.

Objection evidence of nonobviousness arising out of the so-called "secondary considerations" must always be considered when presented in a timely manner. (see MPEP section 716.01(a)). To be given substantial weight in the determination of obviousness or nonobviousness, evidence of secondary considerations must be relevant to the subject matter as claimed so that there is a nexus between the claimed invention and the evidence of the secondary considerations. In re Huang, 100 F. 3d 135, 139-140, USPQ2d 1685, 1689 (Fed. Cir. 1996).

Applicants submit herewith a Declaration from David E. Kistler, the Marketing Director of implantable leads for Pacesetter Inc., the assignee of the subject application, demonstrating the commercial success of Pacesetter's QuickSite® lead which is covered by the claims of the subject application. The attached Declaration further demonstrates a nexus between the features in the subject application and the commercial success of the QuickSite lead. The commercial success is borne out by the significant gross sales volume for the QuickSite lead, as well as by the significant market share the lead has captured, in the relatively short time since its introduction into the marketplace. (See MPEP 716.03(b), Cable Electronic Products, Inc. v. Genmark, Inc., 770 F.2d 1015, 226 USPQ 881 (Fed. Cir. 1985).)

Applicants respectfully submit that the attached Declaration therefore establishes sufficient evidence of success in the marketplace of the QuickSite lead, which is derived from the claimed invention, and therefore establishes a case of nonobviousness of the

claims 1-20 of the present application. Applicants therefore respectfully submit that claims 1-20 are allowable over the prior art of record.

In view of the foregoing, it is respectfully submitted that all of the pending claims patentably distinguish over the cited references, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

12-8-05

Date



Peter A. Nichols
Reg. No. 47,822
Attorney for Applicant(s)
818-493-2323

CUSTOMER NUMBER: 36802